

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Introduced

House Bill 4497

FISCAL
NOTE

BY DELEGATES HANSHAW (MR. SPEAKER) AND SKAFF

[BY REQUEST OF THE EXECUTIVE]

[Introduced February 02, 2022; Referred to the
Committee on Select Committee on Jails and Prisons
then Finance]

1 A BILL to repeal §15A-8-1, §15A-8-2, and §15A-8-3 of the Code of West Virginia, 1931, as
 2 amended; and to amend and reenact §15A-3-2 and §15A-3-16 of said code, all relating to
 3 the repeal of the article governing the Regional Jail and Correctional Facility Authority
 4 Board; abolishing the Regional Jail and Correctional Facility Authority Board; and
 5 eliminating the requirement that special revenue funds be used by the Regional Jail and
 6 Correctional Facility Authority Board to pay indebtedness; and making other technical
 7 corrections.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. DIVISION OF CORRECTIONS AND REHABILITATION.

§15A-3-2. Division of Corrections and Rehabilitation established.

1 (a) The Division of Corrections and Rehabilitation is hereby established within the
 2 Department of ~~Military Affairs and Public Safety~~ Homeland Security. The executive and
 3 administrative head of the Division of Correction and Rehabilitation shall be the commissioner
 4 appointed pursuant to §15A-3-3 of this code.

5 (b) Effective July 1, 2018, the Division of Corrections and the Division of Juvenile Services
 6 are hereby abolished. Except as otherwise provided in this chapter, the powers and authority of
 7 those divisions are hereby transferred to the Division of Corrections and Rehabilitation.

8 (c) Effective July 1, 2018, the powers and authority of the Regional Jail and Correctional
 9 Facility Authority Board, in relation to all functions of correctional operations, are hereby
 10 transferred to the Division of Corrections and Rehabilitation. Effective with the amendments
 11 enacted during the 2022 Regular Session of the West Virginia Legislature, ~~The~~ the Regional Jail
 12 and Correctional Facility Authority Board ~~shall only retain the powers authorized in §15A-8-1 et~~
 13 ~~seq. of this code~~ is hereby abolished.

14 (d) Whenever in this code a reference is made to the Division of Corrections, it shall be
 15 construed to mean the Division of Corrections and Rehabilitation. Wherever in this code a
 16 reference is made to the Division of Juvenile Services, it shall be construed to mean the Division

17 of Corrections and Rehabilitation. Whenever in this code reference is made to the Regional Jail
18 and Correctional Facility Authority Board ~~in relation to operations of any of the regional jails~~, it
19 shall be construed to mean the Division of Corrections and Rehabilitation.

20 (e) Any person employed by the Division of Corrections and Rehabilitation who on the
21 effective date of this article is a classified service employee shall, within the limits contained in
22 §29-6-1 *et seq.* of this code, remain in the classified service system as a covered employee.

23 (f) Where reference in this article is made to the “division”, it shall mean the Division of
24 Corrections and Rehabilitation.

§15A-3-16. Funds for operations of jails under the jurisdiction of the commissioner.

1 (a) Any special revenue funds previously administered by the Regional Jail and
2 Correctional Facility Authority or its executive director are continued, and shall be administered
3 by the commissioner.

4 (b) Funds that have been transferred by §15A-3-16(a) of this code shall be limited in use
5 to operations of jail functions, ~~and for payment to the Regional Jail and Correctional Facility~~
6 ~~Authority Board~~, for payment of indebtedness, and renovation and maintenance for Division of
7 Corrections and Rehabilitation jails. In no case shall a fund be utilized to offset or pay operations
8 of nonjail parts of the facility: *Provided*, That funds may be utilized on a pro rata basis for shared
9 staff and for operational expenses of facilities being used as both prisons and jails.

10 (c) Whenever the commissioner determines that the balance in these funds is more than
11 the immediate requirements of this article, he or she may request that the excess be invested
12 until needed. Any excess funds so requested shall be invested in a manner consistent with the
13 investment of temporary state funds. Interest earned on any moneys invested pursuant to this
14 section shall be credited to these funds.

15 (d) These funds consist of the following:

16 (1) Moneys collected and deposited in the State Treasury which are specifically
17 designated by Acts of the Legislature for inclusion in these funds;

18 (2) Contributions, grants, and gifts from any source, both public and private, specifically
19 directed to the operations of jails under the control of the commissioner;

20 (3) All sums paid pursuant to §15A-3-16(g) of this code; and

21 (4) All interest earned on investments made by the state from moneys deposited in these
22 funds.

23 (e) The amounts deposited in these funds shall be accounted for and expended in the
24 following manner:

25 (1) Amounts deposited shall be pledged first to the debt service on any bonded
26 indebtedness;

27 (2) After any requirements of debt service have been satisfied, the commissioner shall
28 requisition from these funds the amounts that are necessary to provide for payment of the
29 administrative expenses of this article, as limited by this section;

30 (3) The commissioner shall requisition from these funds, after any requirements of debt
31 service have been satisfied, the amounts that are necessary for the maintenance and operation
32 of jails under his or her control. These funds shall make an accounting of all amounts received
33 from each county by virtue of any filing fees, court costs, or fines required by law to be deposited
34 in these funds and amounts from the jail improvement funds of the various counties;

35 (4) Notwithstanding any other provisions of this article, sums paid into these funds by each
36 county pursuant to §15A-3-16(g) of this code for each inmate shall be placed in a separate
37 account and shall be requisitioned from these funds to pay for costs incurred; ~~and~~

38 (5) Any amounts deposited in these funds from other sources permitted by this article shall
39 be expended based on particular needs to be determined by the commissioner; and

40 (6) Notwithstanding any other provision of this article, any funds deposited in the Regional
41 Jail and Correctional Facility Authority Fund shall be used by the commissioner solely for the
42 maintenance and renovation of Division of Corrections and Rehabilitation jails: *Provided, That*
43 funds may be utilized on a pro rata basis for shared staff and for operational expenses of facilities

44 being used as both prisons and jails.

45 (f)(1) After a jail facility becomes available pursuant to this article for the incarceration of
46 inmates, each county within the region shall incarcerate all persons whom the county would have
47 incarcerated in any jail prior to the availability of the jail facility in the jail facility, except those
48 whose incarceration in a local jail facility used as a local holding facility is specified as appropriate
49 under the previously promulgated, and hereby transferred standards and procedures developed
50 by the Jail Facilities Standards Commission, and whom the sheriff or the circuit court elects to
51 incarcerate therein.

52 (2) Notwithstanding the provisions of §15A-3-16(f)(1) of this code, circuit and magistrate
53 courts are authorized to:

54 (A) Detain persons who have been arrested or charged with a crime in a county or
55 municipal jail specified as appropriate under the standards and procedures referenced in §15A-
56 3-16(f)(1) of this code, for a period not to exceed 96 hours; or

57 (B) Commit persons convicted of a crime in a county or municipal jail, specified as
58 appropriate under the standards and procedures referenced in §15A-3-16(f)(1) of this code, for a
59 period not to exceed 14 days.

60 (g) When inmates are placed in a jail facility under the jurisdiction of the commissioner
61 pursuant to §15A-3-16(f) of this code, the county, and municipality if the incarceration is a
62 municipal violation, shall pay into this fund a cost per day for each incarcerated inmate, to be
63 determined by the state Budget Office annually by examining the most recent three fiscal years
64 of costs submitted by the commissioner for the cost of operating the jail facilities and units under
65 his or her jurisdiction, and taking an average per day, per inmate cost of maintaining the
66 operations of the jail facilities or units: *Provided*, That beginning July 1, 2018, and continuing
67 through July 1, 2022, in no case shall any county or municipality be required to pay a rate that
68 exceeds \$48.25 per day, per inmate. Nothing in this section shall be construed to mean that the
69 per diem cannot be decreased or be less than \$48.25 per day per inmate.

70 (h) The per diem costs for incarcerating inmates may not include the cost of construction,
71 acquisition, or renovation of the regional jail facilities: *Provided*, That each jail facility or unit
72 operating in this state shall keep a record of the date and time that an inmate is incarcerated, and
73 a county may not be charged for a second day of incarceration for an individual inmate until that
74 inmate has remained incarcerated for more than 24 hours. After that, in cases of continuous
75 incarceration, subsequent per diem charges shall be made upon a county only as subsequent
76 intervals of 24 hours pass from the original time of incarceration.

77 (i) The county is responsible for costs incurred by the division for housing and maintaining
78 inmates in its facilities who are pretrial inmates and convicted misdemeanants. The costs of
79 housing shall be borne by the division on a felony conviction on which an inmate is incarcerated
80 beginning the calendar day following the day of sentencing: *Provided*, That beginning July 1,
81 2019, the costs of housing shall be borne by the division on a felony conviction when an inmate
82 is incarcerated beginning the calendar day following the day of conviction. In no case shall the
83 county be responsible for any costs of housing and maintaining felony convicted inmate
84 populations.

85 (j) The county is responsible for the costs incurred by the authority for housing and
86 maintaining an inmate who, prior to a felony conviction on which the inmate is incarcerated and
87 is awaiting transportation to a state correctional facility for a 60-day evaluation period as provided
88 in §62-12-7a of this code.

89 (k) On or before July 1, 2020, the commissioner shall prepare a report on the feasibility of
90 phasing out the county and municipal per diem charges required by §15A-3-16(g) of this code.
91 This report shall include information regarding savings realized because of the consolidation of
92 the former Division of Corrections, Division of Juvenile Services, and the operations of the
93 Regional Jail and Correctional Facility Authority, as well as any other recommendations that might
94 ease the burden of paying the per diem inmate costs by the counties or municipalities. On or
95 before January 1, 2019, January 1, 2020, and January 1, 2021, the commissioner shall report to

96 the Joint Committee on Government and Finance and the co-chairmen of the Joint Standing
 97 Committee on Finance the actual per diem rate as calculated pursuant to §15A-3-16(g) of this
 98 code and any amount not assessed to counties if the actual per diem cost is larger than the
 99 amount charged to the counties or municipalities pursuant to §15A-3-16(g) between July 1, 2018,
 100 and July 1, 2021.

ARTICLE 8. REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY BOARD.

§15A-8-1. Powers and authority of the Regional Jail and Correctional Facility Authority Board; continuation of the Regional Jail and Correctional Facility Authority Board; payment of bonds; appeal of per diem rate.

1 [Repealed]

§15A-8-2. West Virginia Regional Jail and Correctional Facility Authority Board; composition; appointment; terms; compensation and expenses.

1 [Repealed]

§15A-8-3. Governing body; organization and meetings; quorum; administrative expenses.

1 [Repealed]

NOTE: The purpose of this bill is to repeal the article related to and abolish the Regional Jail and Correctional Facility Authority Board and to direct court costs previously going to pay Regional Jail Authority costs be used to pay for ongoing maintenance and repair needs at prisons and jails in this State, in order to better manage capital costs at such facilities in the future.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.